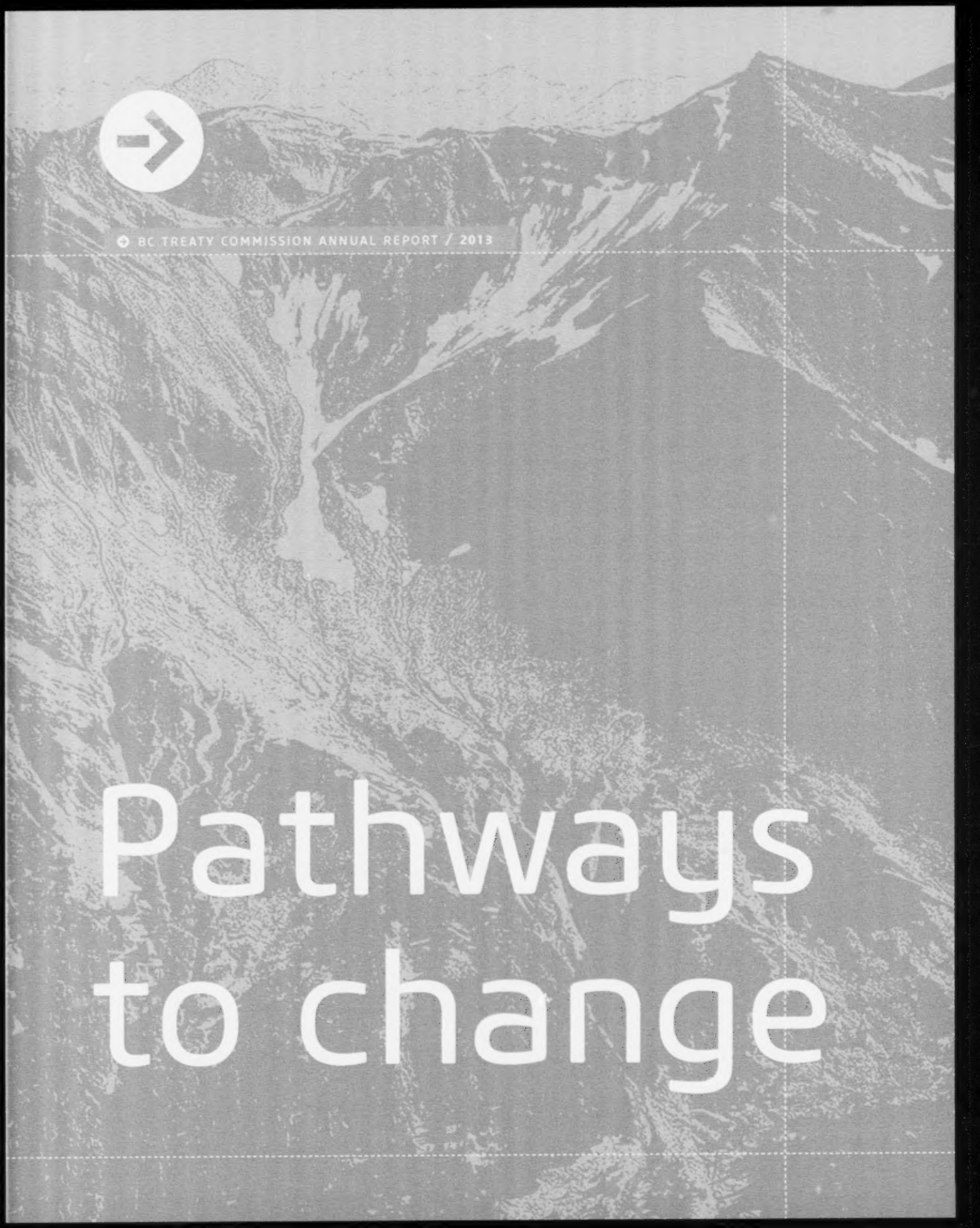




# Pathways to change

In this new atmosphere of change, we must continue to learn from successes, we must embrace the opportunities before us and we must look to progress in the future.


Road to change ..... 03

Embracing change..... 05

Preparing for change..... 09

Status report ..... 13

Facilitating change ..... 23

Barriers to change ..... 27

Commissioners ..... 31

Resources ..... 34

# Letter from the Chief Commissioner

**NOW IS THE TIME FOR CHANGE.** There is great opportunity for the three Parties to the British Columbia treaty negotiations process to collectively achieve lasting agreements through fair and effective negotiations.

On September 21, 1992 the "Made-in-BC" treaty negotiations process was committed to by the federal government, the British Columbia Government and the First Nations Summit. This commitment was for tripartite negotiations made in good faith, made in British Columbia, holding up the honour of the Crown through a process of reconciliation. This would lead to recognition of and respect for Aboriginal title and rights. While this seemed like a fairly straight forward endeavour, a shift in the thinking for settling the outstanding "land issue" and real commitment to meaningful negotiations, continues to challenge all three Parties.

This commitment was given legal force through the British Columbia Treaty Commission Agreement, 1992 and legislation establishing the Treaty Commission.

**Our annual report this year examines the effect of change that treaty negotiations bring to a community. As more communities reach milestones that require ratification, the effect of change is more immediate and the importance of preparedness is essential.**

While our report concentrates on First Nations, the effects of change are as important for the other two Principals. The Treaty Commission has growing concerns about the readiness of the federal and provincial governments to meet the requirements of the numbers of tables going into final agreement and implementation stages of the negotiations process.

As the last part of this annual report emphasizes, the Principals must face the barriers to progress in the treaty negotiations process together, and find solutions collectively.

On January 11, 2013 a meeting between the Assembly of First Nations (AFN) and the prime minister created an expectation that change would occur in the relationship between the federal government and First Nations. The Treaty Commission seized this opportunity and made specific recommendations to the federal government of measures that would strengthen treaty negotiations in BC by addressing mandate issues that have created obstacles to successful negotiations. One of these recommendations addressed the particular mandate issues around fish and fiscal measures that continue to plague many negotiation tables.

Our recommendation was simple and direct: "that the Recognition and Certainty Technical Working Group be tasked with exploring how discussions on own source revenues (OSR), taxation and fish can be moved forward."

**There's no need for more studies, let's just get it done.**

Since becoming the chief commissioner in 2009, I have observed the Principals, particularly the federal government, go from pillar to post reviewing, studying, and analyzing issues rather than just getting on with the hard work of negotiations, in good faith, leading to completed and implemented treaties. This past year the federal government engaged in a unilateral "results based analysis" of the treaty negotiation tables. Before any report was tabled on this analysis, a separate

review was created lead by a Senior Oversight Committee. No matter what it's called, it's still studying the issue rather than finding solutions.

The Treaty Commission has made numerous recommendations like the one quoted above that would lead to the successful conclusion of negotiations to which we all aspire.

The readiness of the provincial government to negotiate as well as to implement existing treaties is also raising concerns. Budgetary limitations have certainly affected timely negotiations but the real concern is the apparent movement away from long-term solutions through treaty in favour of short-term economic opportunities as indicated in the mandate letter from Premier Clark to Minister Rustad. The Treaty Commission has stated many times, and remains of the firm belief, that the bilateral agreements leading to economic benefit now rather than later are good solid stepping stones. But they are not a replacement for full self-determination for First Nations and certainty for all that a final treaty brings.

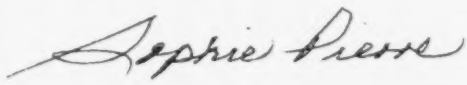
The issue that continues to plague First Nations involves capacity: the capacity to negotiate while re-building the First Nation for self-governance, the capacity to reach agreements on shared territory for the benefit of all Parties and the capacity to implement treaties to their full potential. The Treaty Commission remains committed to supporting First Nations to implement their solutions to these challenges of capacity.

**These past few months have seen a full change in leadership at the Principals level.**

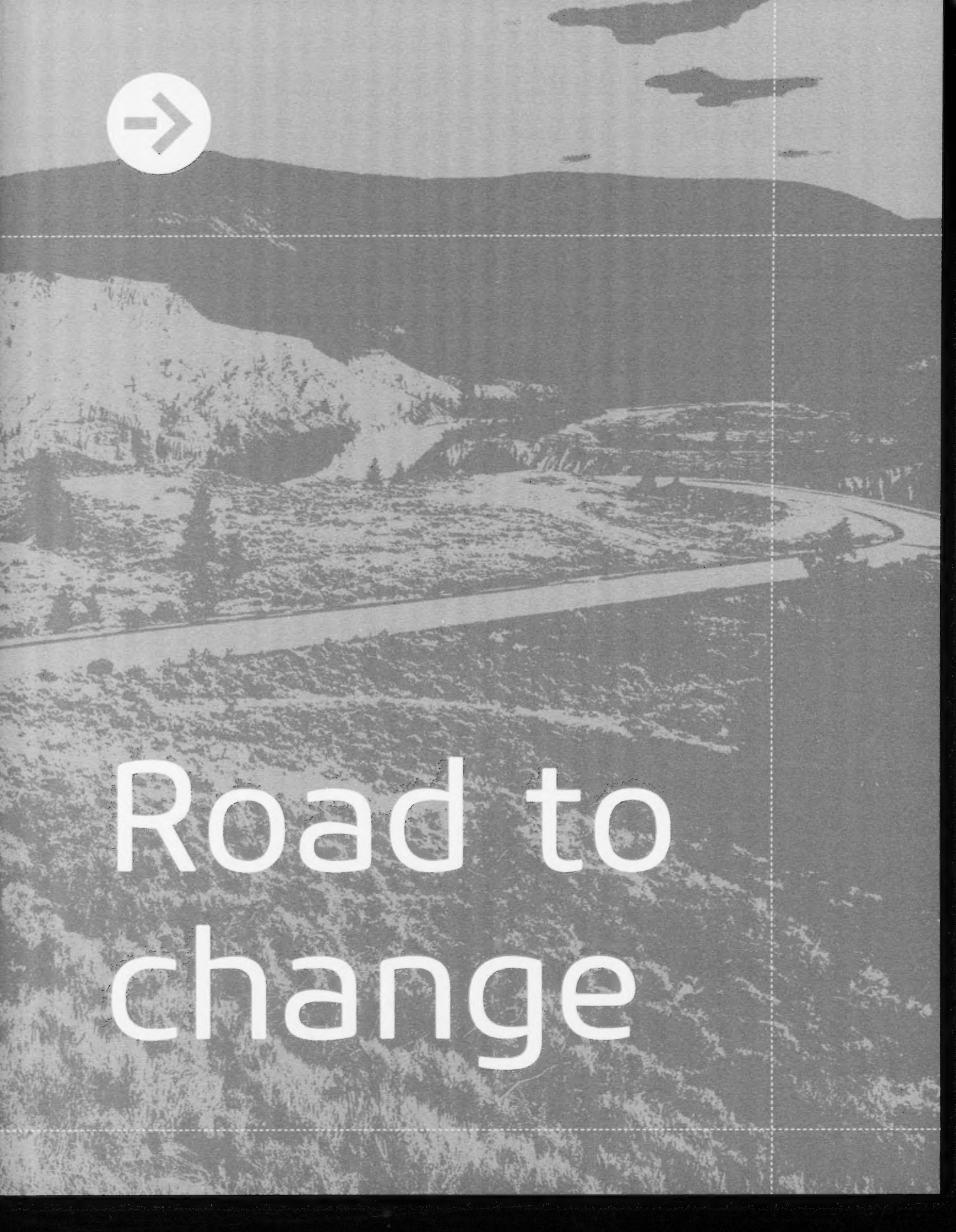
Only Grand Chief Edward John remains of the Principals we worked with last year. Minister Bernard Valcourt now represents the Federal Government, Minister John Rustad, the Provincial Government and newly elected Task Group members Cheryl Casimer and my former colleague, Robert Phillips, represent the First Nations Summit. The immediate challenge for this new group is to actually have a Principals meeting. We haven't had one since May 2012. How can the Principals understand, discuss and find solutions to the challenges for good faith negotiations if they do not meet regularly? How can we change the thinking that has prevented us from reaching successful agreements if we don't engage in the tough discussions necessary? Answers that work for all Parties need to be arrived at together.

Although I indicated in the 2012 annual report that my term as chief commissioner was finished, clearly that did not happen. I appreciate the trust the Principals have shown by extending my term. I also encourage them to identify a new chief commissioner within the next year to ensure that the important work of the Treaty Commission continues.

To my colleagues, the commissioners and staff of the BC Treaty Commission, my sincere thank you for your continued dedication and commitment to the successful completion of treaties in British Columbia. You are a terrific group of people to work with!



**Sophie Pierre** OBC
Chief Commissioner



# Road to change

# Change Comes from Successfully Moving Away from the *Indian Act*

## HELPING FIRST NATIONS TRANSITION FROM DEPENDENCY TO INDEPENDENCY

The Treaty Commission's 2012 annual report, *Learning from Our Success*, highlighted several First Nations who are achieving success in the treaty negotiations process.

These First Nations are working hard to transition their communities from dependency to independency — to choose a new path and embark on a journey from *Indian Act* band administration to self-governance through treaty.

The shift from dependency to independency involves big change. The successes highlighted last year along with the ratification of several subsequent agreements indicate that First Nations are seeking this change.

First Nations such as Tsawwassen, who are implementing final treaty agreements, talk about treaty as a means to rise out of the *Indian Act*, to rebuild the community and take them from managing poverty to managing wealth and a sustainable economy.

Similarly, the Kitselas First Nation has referred to this transition from the *Indian Act* to self-governance as an opportunity for independence and even named their ratification campaign the "Countdown to Independence."

## Boulder in the road to change

Recent years have seen heated public discourse about the *Indian Act*. There is growing discussion about the legislation's history, imposition, potential amendment and even abolishment.

At the Crown-First Nations Gathering with the Prime Minister in Ottawa in January 2012, Assembly of First Nations (AFN) National Chief Shawn Atleo referred to the *Indian Act* as a "rock that sits in the middle of that road ... a boulder that blocks the path of collaboration ... along with the age-old structures and policies that administer it and steadfastly resist change."

The challenge for First Nations governments remains to educate their citizens on the limitations of the *Indian Act* and to dispel fears related to moving toward change.

The next section of this report considers the ratification efforts of First Nations in pursuit of change for their communities through treaty. It highlights the successes as well as the realistic challenges that First Nations face while endeavouring to educate and inform their citizens. It highlights that when individuals are informed and educated, they are poised to embrace change and vote in favour of an agreement in principle or a final agreement.

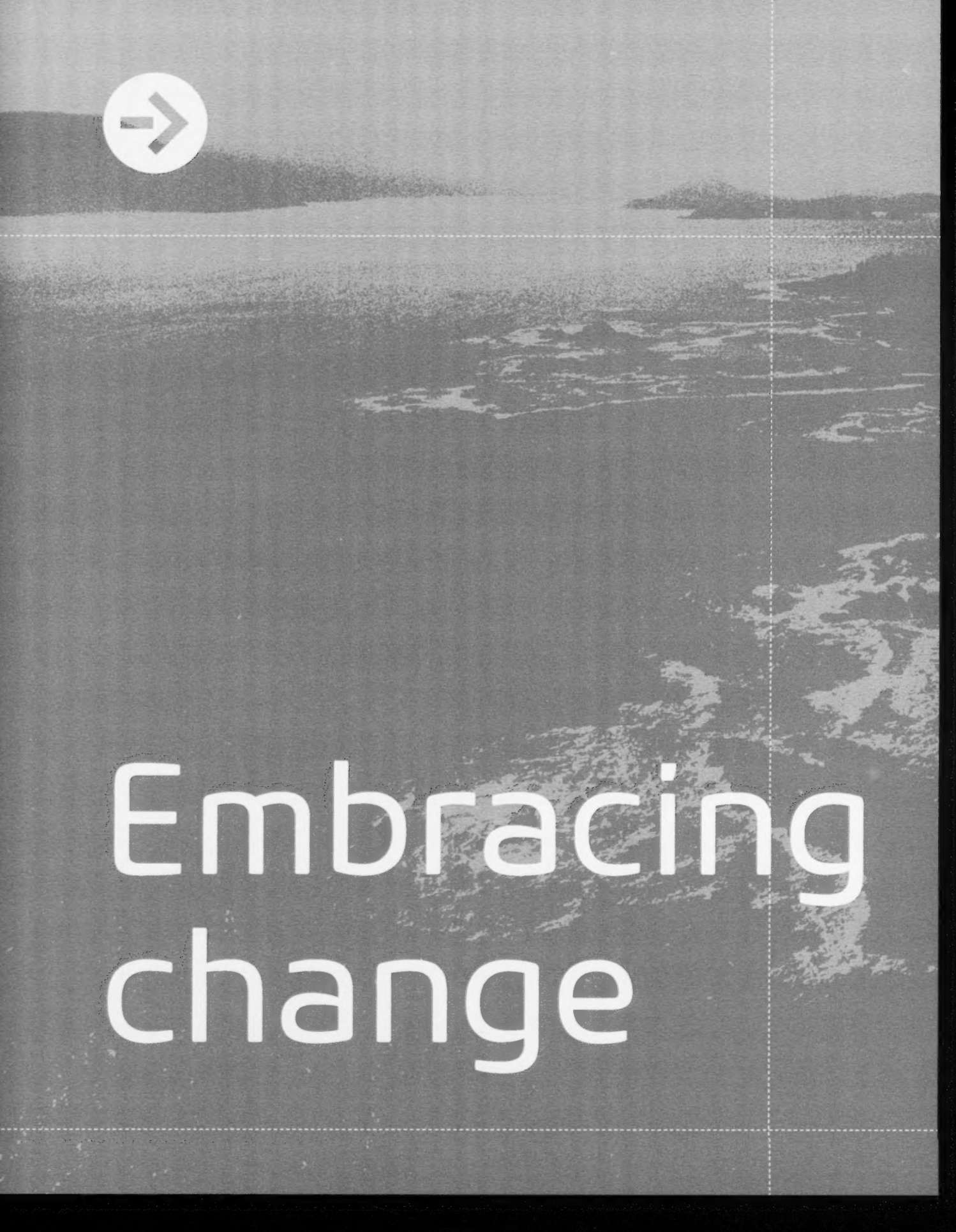
Following the discussion of ratification, this report highlights the need for First Nations to begin planning for the human resource capacity necessary to run a self-governing First Nation in a post-treaty environment. It highlights how many First Nations are preparing their current and future leaders for the change that will come from successfully moving away from the *Indian Act*.

The final section of this report is a reminder that there is a role to play for all three Parties to overcome barriers and move the treaty negotiations process forward. This section will highlight areas that require more dedicated collaboration from all the Principals.

**"Collaboration to settle treaties can bring certainty to this province and be of benefit to all British Columbians and Canadians.**

However, the *Indian Act* remains a roadblock to effective collaboration in BC and beyond. The Treaty Commission views treaty as a path to change. This path is a difficult one, but one that promises self-determination for First Nations and certainty for the entire province."

CHIEF COMMISSIONER SOPHIE PIERRE



# Embracing change

# Ratification: Opportunity to Embrace Change

## INFORMED CITIZENS MAKING INFORMED DECISIONS FOR CHANGE

At the stage of community approval or ratification — either of an agreement in principle (AiP) or a final agreement — First Nations citizens are presented with the opportunity to make the choice for change.

Over the years, the Treaty Commission has learned that ratification is a key area where First Nations need extra support during the treaty negotiations process. The Treaty Commission is looking at ways to identify best practices for successful community engagement campaigns.

Engaging the citizens and gaining support is not a small task. Over the past year, five First Nations (Tla-o-qui-aht, 'Namgis, Kitselas, Kitsumkalum and Wuikinuxv) held AiP ratification votes. Three of those were "yes" votes, giving those First Nations' negotiators the mandate to work toward reaching a final agreement.

The relevance of ratification is as high as it has ever been. Eight First Nations are anticipated to hold a vote on an AiP in the near future (Ditidaht, Homalco, Katzie, Ktunaxa, Pacheedaht, Nazko, Northern Shuswap and Te'Mexw) and four are expected to hold final agreement votes (In-SHUCK-ch, Kitselas, Kitsumkalum and K'omoks).

If the people are going to choose a better future by supporting treaty, their knowledge of the content and the process must be at its highest level.

First Nations must make informed decisions and not reject a treaty out of a fear of change.

It is the job of treaty negotiators and communicators to inform each individual in the First Nation. They must show how a treaty will enable the community to move away from the limitations of the *Indian Act* and toward self-determination. This could dispel some of the fear of change.

### What worked? Lessons from Tsimshian, Wuikinuxv, K'omoks and Maa-nulth First Nations

The Treaty Commission interviewed Melissa Quocksister and Gerald Wesley about what it takes to get an AiP ratified. Quocksister was involved in the education campaign leading up to the ratification of the K'omoks First Nation AiP in 2011, in addition to three other First Nations' successful ratification efforts. Wesley worked on AiP ratifications for Kitselas and Kitsumkalum, both of which were approved in 2013.

**Kitselas and Kitsumkalum both obtained community approval after engaging their people and executing successful education campaigns. One effective approach these First Nations took was educating a group of their young people on the treaty and having them engage in face-to-face information sessions with citizens.**

In July 2013, the Wuikinuxv First Nation approved their AiP. This approval was the result of intensive community consultation efforts by the treaty team, who trained representatives living on and off reserve to go door to door and inform community members about the treaty.

To address any lingering concerns, the first three days of the Wuikinuxv Annual General Meeting before the vote were largely dedicated to answering citizens' questions about the treaty.

These ratification techniques have proven successful in the past. The 2007 ratification of the Maa-nulth Final Agreement is a good example of how hard work at the grassroots level can overcome obstacles to ratification. Their success, like the successes of Kitselas, Kitsumkalum and Wuikinuxv, was largely thanks to a massive campaign to inform voters on the issues.

It took trial-and-error, quick learning, dedicated volunteers from around the community and the education and mobilization of the whole First Nation, as organizer Trudy Warner of the Huu-ay-aht First Nation (one of the five First Nations who negotiated the Maa-nulth Treaty) told a conference audience that year.

"We had community meetings, information sessions, we identified home visits, youth groups, elder groups, staff meetings, telephone campaigns, how we were going to keep our website updated and members updated through that and how we were going to prepare our written materials," Warner said. "I found very early on that people just want to be heard. ... I needed to just listen to them and bring that back to our leadership."

"Citizens need to understand what they are voting on. Their decisions need to be based on sound information.... However, Nations should not wait for a vote to inform their people about treaties; they should be doing it right now, regardless of whether they have a vote coming up or not."

MELISSA QUOCKSISTER

"We felt we had done a pretty good job of keeping members informed over the years of negotiations, but as we got closer to AiP ratification, it was clear many ears had not been reached and many misconceptions were out there," Gerald Wesley added.

"Our core treaty teams have been at the table for over a decade and have learned a new language and understand issues that are not as clear to members who do not sit in an office every day studying this stuff."

GERALD WESLEY

"Make sure your chief and council are on board with your treaty team," Quocksister said. "They have to be in parallel. If they're not ... it's really, really difficult and a waste of resources and time."

**"Over the next year, the Treaty Commission hopes to further explore ratification best practices and challenges.**

It is hoped that resources such as a report, best practices guide, and a video on successful ratification campaigns can be produced for the use of other First Nations approaching AiP or final agreement."

COMMISSIONER JERRY LAMPERT

The Treaty Commission supports all endeavours for ratification and will continue to do whatever necessary to assist First Nations in achieving change.

## What are the challenges?

Two First Nations voted "no" to AiPs this year. The Treaty Commission has recognized several factors that can impact a "no" vote: low voter turnout, misinformation and in some instances a lack of awareness and understanding of what a future without the *Indian Act* and with a modern treaty entails.

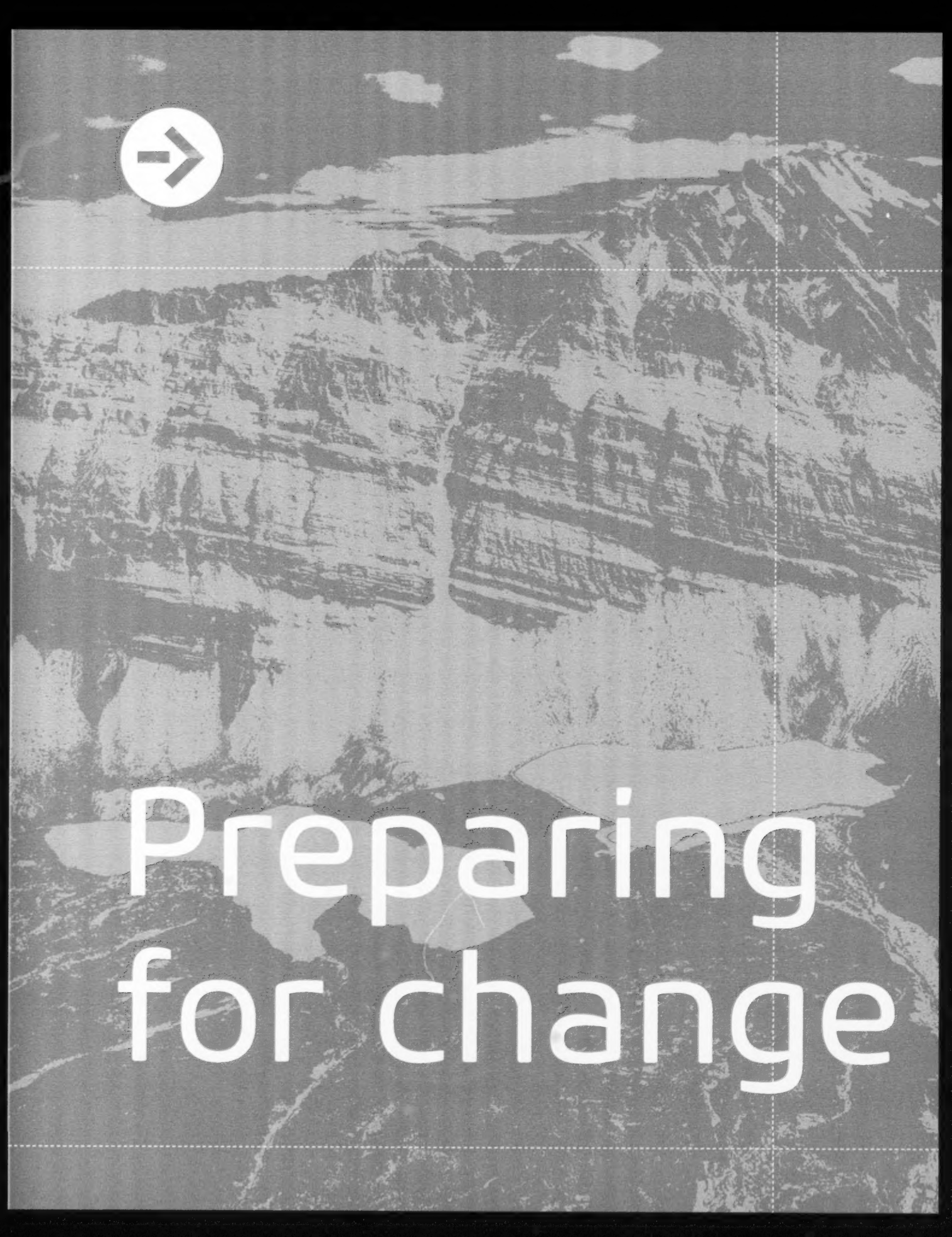
Also worth mentioning is the high threshold for ratification success at the final agreement stage. While an AiP can usually be approved by a simple majority of all voters who cast a ballot, the final agreement requires a simple majority of *all eligible voters*. This important distinction means every person who does not cast a ballot has essentially voted "no,"making this type of vote the most challenging to pass in Canada at any level of government. This highlights the critical importance of get-out-the-vote campaigns and reaching out to citizens living away from home.

## A change in conversation at the community level

As First Nations advance through the stages of the treaty process and get closer to the implementation of a final agreement, there is a noticeable shift in conversation and attitudes. The people start to realize that change is possible and they can indeed take control of their futures through treaty.

Leaders and community members start formulating visions and plans of what to do with their lands when they truly take control. Economic, ecological and cultural concerns suddenly become more focused and the stakes become higher as the possibility of change becomes more real.

It is for these reasons that the Treaty Commission wishes to highlight the importance, magnitude and challenges of ratification votes. It is up to the people to make the choice for change, but it is up to leaders to make sure all their citizens have the facts to decide for themselves.



# Preparing for change

# Preparing First Nation Citizens for Change

## TRANSFORMING FROM *INDIAN ACT* ADMINISTRATION TO POST-TREATY SELF GOVERNANCE

How can First Nations prepare their citizens and younger generations for future positions that arise when the First Nations become self-governing? How will the First Nations transition current staff into post-treaty positions?

Human resource capacity planning will provide answers to these questions and help prepare communities for the change that comes out of becoming self-governing under a modern treaty.

Over the past year, the Treaty Commission continued to support the need for Human Resource planning by offering the Human Resource Capacity Tool workshop, which was originally developed in 2011 to assist BC First Nations who are working through the treaty negotiations process.

**"This is another example of how the role of the Treaty Commission has evolved over time and has responded to the ever-changing needs of First Nations pursuing self-governance via treaty."**

COMMISSIONER CELESTE HALDANE

Human resource capacity speaks to the skills and capacity of the people that govern First Nation communities. To govern effectively in a post-treaty environment, First Nations must plan for training, capacity building and professional development of the current leaders and the next generation of leaders and managers. This investment is essential to ensure First Nations possess the knowledge, skills and experience to effectively govern.

This planning is a critical component of ensuring that First Nations have the right people in the right jobs at the right time to support good governance.

Building on the success of earlier conferences, the Treaty Commission hosted a two-day conference in February to bring together First Nations leaders who had previously taken part in one of the six workshops delivered across BC over the past two years.

The conference offered a combination of guest speakers, interactive group discussions, the presentation of the Treaty Commission's human resource video and an introduction to the Treaty Commission's interactive online discussion forum that allows participants to stay engaged in dialogue and information sharing beyond the HR workshops and conference.

Themes that emerged from the conference included:

- Succession planning for change;
- Building capacity in youth;
- Using innovation in HR planning and strategy;
- Balancing western education and traditional teachings; and
- Preparing for a post-*Indian Act* environment.

**"As we move forward with more treaties, we must ensure that our people are ready to take over the governance of their First Nations.**

In a post-treaty environment, there are many changes from being an *Indian Act* band and we must be ready. The Treaty Commission continues to recognize the ever-changing needs that First Nations are faced with as they move toward self-government."

COMMISSIONER DAVE HAGGARD

## Succession planning for change

At the conference, participant Randy Bell from the 'Namgis First Nation shared how he applied the knowledge from his first Human Resource Capacity Tool workshop.

"These decisions are going to be life changing for our community and their families going forward."

He encouraged his First Nation to start investing in their people so they have the capacity for the jobs that are here now and the ones that are coming forward.

He added that department managers realized the importance of succession planning for the positions that are going to be vacant when many of the senior managers retire within the next five years.

"The other part that we're doing in there is hiring a youth to be a part of this, right from the get-go, because it is going to be that generation going forward that is going to be hugely impacted with what decisions we make, and we want them to be part of that decision making process."

RANDY BELL

Utilizing innovative strategies for engaging youth in HR planning was a recurring theme in the discussions. "It was really exciting to have young people in there because they're going to be the ones who shape the future for all of us," added one participant.

Several speakers presented during the two-day conference including Dr. Stephen Cornell from the University of Arizona, Angela Wesley from the Maa-nulth Nation, Valerie Cross-Blackett from the Tsawwassen First Nation, David Montgomery from the Quinault Nation and Edward Allen from the Nisga'a Nation.

These speakers offered academic knowledge and first-hand experience of the change that occurs and the resulting HR needs in a post-treaty environment.

## Capacity for change

"Capable self-government attracts and keeps capable people."

DR. STEPHEN CORNELL

Dr. Stephen Cornell introduced his presentation, titled "The Quest for People," by asking, "How do you attract the people you need? How do you prepare the people you need? And how do you keep the people you need?"

Cornell emphasized that First Nations need capable people to run their governments — not just leaders, but true governors. "But I think what we forget is that it's actually a two-way street, it goes both directions, because if you want to get, prepare, keep, retain those capable people, you're going to have to create an environment that they want to be a part of."

He urged First Nations to ask themselves, "Have we prepared a governance environment that invites our own people, and encourages them to invest a piece of their life in our Nation?"

*To view the HR Toolkit, view the HR video or request to join the interactive dialogue forum, please visit:* www.bctreaty.ca/files/hr-capacity-tool-kit.php
*View the Treaty Commission's HR video on YouTube:* www.youtube.com/watch?v=dwyMceR7auA&feature=youtu.be

"I echo the sentiments of the conference speakers — that First Nations must plan and prepare for change by adequately training their people and creating an environment that attracts those qualified people to invest their careers in thriving, self-governing First Nations."

SOPHIE PIERRE
CHIEF COMMISSIONER

# STATUS REPORT

*There are 60 First Nations, which include 104 Indian Act bands, in the BC treaty negotiations process.*

### FIRST NATIONS IMPLEMENTING TREATY AGREEMENTS (2)

Maa-nulth First Nations
Tsawwassen First Nation

### FIRST NATIONS WITH COMPLETED FINAL AGREEMENTS (3)

Lheidli T'enneh First Nation
Tla'amin Nation
Yale First Nation

### FIRST NATIONS IN FINAL AGREEMENT NEGOTIATIONS OR COMPLETED AGREEMENTS IN PRINCIPLE (5)

In-SHUCK-ch Nation
K'omoks First Nation
Tsimshian First Nations
(Kitselas and Kitsumkalum)
Wuikinuxv Nation
Yekooche First Nation

### FIRST NATIONS IN ADVANCED AGREEMENT-IN-PRINCIPLE NEGOTIATIONS (10)

Ditidaht/Pacheedaht First Nations
Homalco Indian Band
Katzie Indian Band
Ktunaxa/Kinbasket Treaty Council
'Namgis Nation
Nazko First Nation
Northern Shuswap Tribal Council (NStQ)
Te'Mexw Treaty Association
Tla-o-qui-aht First Nations

### FIRST NATIONS IN ACTIVE AGREEMENT-IN-PRINCIPLE NEGOTIATIONS (20)

Council of the Haida Nation
Da'naxda'xw Awaetlala Nation
Esk'etemc First Nation
Gitanyow Hereditary Chiefs
Gitxsan Hereditary Chiefs
Gwa'Sala-'Nakwaxda'xw Nation
Haisla Nation
Hul'qumi'num Treaty Group (HTG)
Kaska Dena Council
Klahoose First Nation
Laich-Kwil-Tach Council of Chiefs (LCC)
Lake Babine Nation
Snuneymuxw First Nation
Stó:lō Xwexwilmexw Treaty Association (SXTA)
Taku River Tlingit First Nation (TRTFN)
Tlatlasikwala Nation
Tlowitsis First Nation
Tsay Keh Dene Band (TKD)
Tsimshian First Nations
(Gitga'at, Kitasoo/XaiXais, Metlakatla)
Tsleil-Waututh Nation
Wet'suwet'en Hereditary Chiefs

### FIRST NATIONS NOT CURRENTLY NEGOTIATING A TREATY (20)

Acho Dene Koe First Nation (ADK)
Allied Tribes of Lax Kw'alaams
Carcross/Tagish First Nation
Carrier Sekani Tribal Council
Champagne and Aishihik First Nations
Cheslatta Carrier Nation
Heiltsuk Nation
Hupacasath First Nation
Hwlitsum First Nation
Kwakiutl Nation
Liard First Nation
McLeod Lake Indian Band
Musqueam Nation
Nuu-chah-nulth Tribal Council
Quatsino First Nation
Ross River Dena Council
Sechelt Indian Band
Squamish Nation
Teslin Tlingit Council
Westbank First Nation

AiP: Agreement in Principle ITA: Incremental Treaty Agreement TRM: Treaty Related Measure

## COMPLETED TREATIES

FIRST NATIONS IMPLEMENTING TREATY AGREEMENTS (2)

### Maa-nulth First Nations

The Maa-nulth First Nations Final Agreement was implemented on April 1, 2011.

### Tsawwassen First Nation

The Tsawwassen First Nation Final Agreement was implemented on April 2, 2009.

## COMPLETED FINAL AGREEMENTS

FIRST NATIONS WITH COMPLETED FINAL AGREEMENTS (3)

### Lheidli T'enneh First Nation

The Lheidli T'enneh treaty table is in Stage 5. The First Nation has a completed final agreement that their membership voted not to proceed with in 2007. Lheidli T'enneh continues to focus on community engagement to determine if a second vote should take place.

Lheidli T'enneh traditional lands and waters are around Prince George, including the Nechako and Fraser River area to the Alberta border. There are approximately 390 members.

### Tla'amin Nation

The Tla'amin Nation has a final agreement and concluded Stage 5. Tla'amin Nation ratified the Tla'amin Final Agreement on July 10, 2012, and it was brought forward to the BC Legislature during the spring session in 2012 — it was approved unanimously. It is now expected that Canada will proceed with its ratification process through Parliament in the fall session.

Tla'amin First Nation has a population of approximately 1,030 citizens and their traditional lands and waters are in the vicinity of Powell River, Powell Lake, parts of the Gulf Islands, the Courtenay area and Desolation Sound.

### Yale First Nation

The Yale First Nation Final Agreement received Royal Assent on June 19, 2013. The Parties are yet to set an effective date for treaty implementation.

Yale has a population of more than 160 members and their traditional lands are around Yale and in the Fraser Canyon, north of Hope.

## FINAL AGREEMENT

FIRST NATIONS IN FINAL AGREEMENT NEGOTIATIONS OR COMPLETED AGREEMENTS IN PRINCIPLE (5)

### In-SHUCK-ch Nation

The In-SHUCK-ch resumed Stage 5 negotiations after the Parties received mandates to continue negotiations with the communities of Skatin and Samahquam.

The Treaty Commission is working with In-SHUCK-ch and their neighbours to help resolve their overlap issues.

In-SHUCK-ch's traditional lands are located between the middle point of Harrison Lake, northward to the middle point of Lillooet Lake. In-SHUCK-ch represents approximately 760 members.

### K'omoks First Nation

The K'omoks treaty table is in Stage 5 negotiations. The treaty table is addressing outstanding issues and is working toward a final agreement. BC and Canada cost-shared the transfer of a key parcel of land to K'omoks. The First Nation is exploring economic opportunities and capacity building through TRMs.

K'omoks has signed three shared harvest area protocols and continues to engage other neighbouring First Nations and local governments to address each other's interests in shared areas.

The population of K'omoks First Nation is approximately 322 members. Their traditional territory spans the central eastern part of Vancouver Island, extending into Johnstone Strait.

### Tsimshian First Nations

Three of the Tsimshian First Nations are progressing in the treaty process. Kitselas and Kitsumkalum are expected to enter Stage 5 negotiations this fall and Metlakatla is advancing in Stage 4 negotiations. This past year both Kitselas and Kitsumkalum carried out substantial community engagement, leading to both successfully ratifying their AiPs. The tripartite signing is expected before the end of this year.

Kitselas, Kitsumkalum and Metlakatla are collectively working with the Treaty Commission to resolve their interests in shared areas. The other Tsimshian First Nations are at varying degrees of engagement in their treaty negotiations.

Tsimshian First Nations consists of Gitaʼat, Kitasoo/XaiXais, Kitselas, Kitsumkalum, and Metlakatla, representing approximately 4,034 members combined. Their traditional territories span the northwest coast, including Prince Rupert and Terrace.

### Wuikinuxv Nation

The Wuikinuxv treaty table is in Stage 4 negotiations. The Parties at the Wuikinuxv table initialled an AiP on December 4, 2012. During the winter and spring, Wuikinuxv undertook an intensive community consultation process, and on July 24, 2013, at their Annual General Meeting, the citizens overwhelmingly approved the AiP with 94 per cent in favour. Once BC and Canada approve the agreement, the Parties will begin Stage 5 negotiations.

Wuikinuxv's main community is on their reserve in Rivers Inlet, where approximately 60 out of their 283 citizens reside.

### Yekooche First Nation

Yekooche Final Agreement (Stage 5) negotiations have been on hold due to Canada's deferred fisheries negotiations and Yekooche's internal governance issues.

Yekooche First Nation has a population of approximately 220 people and their traditional lands and waters are near Stuart Lake, Cunningham Lake and the southern portion of Lake Babine.

## ADVANCED

**FIRST NATIONS IN ADVANCED AGREEMENT-IN-PRINCIPLE NEGOTIATIONS (10)**

### Ditidaht/Pacheedaht First Nations

Ditidaht and Pacheedaht First Nations negotiate together and the table is in Stage 4 negotiations. The table pursued an aggressive meeting schedule and made extensive progress on their AiPs. In March, the two First Nations signed ITAs negotiated with BC. Currently, the Parties are developing a Strategic Engagement Agreement and are working to address lands in federal parks.

Ditidaht has 756 members, many of whom live on the Ditidaht reserve near Nitinaht Lake. Pacheedaht has 276 members with offices located in Port Renfrew. Their combined territories span the southwestern corner of Vancouver Island.

### Homalco Indian Band

Homalco Stage 4 AiP negotiations are quickly advancing. The Parties are moving through the remaining outstanding issues and reviewing the land interests Homalco has put forward. BC and Homalco have reached an agreement on an ITA, and BC is engaging in consultation discussions with neighbouring First Nations on the ITA. Homalco is committed to working with neighbouring First Nations to resolve shared territory issues.

Homalco has a population of approximately 474 people. Their traditional lands and waters extend from Phillips Arm, west of the mouth of Bute Inlet, to Raza Passage and Quantum River and to Stuart Island and Bute Inlet and its watershed.

### Katzie Indian Band

The Katzie treaty table is in Stage 4 negotiations. The Parties meet on a regular basis to address outstanding issues of the AiP. The table has begun preparations and the First Nation is expecting a land and cash offer before the end of year. Katzie completed extensive community engagement with their membership and with local governments.

The Katzie Indian Band has 540 members, and their traditional lands and waters are around

Pitt Meadows, Maple Ridge, Coquitlam, Surrey, Langley and New Westminster.

### Ktunaxa/Kinbasket Treaty Council

The Ktunaxa Nation treaty table is in Stage 4 negotiations. The Parties are focused on completing the few remaining but substantial provisions of the AiP. The Ktunaxa/Kinbasket Treaty Council recently completed a culture and heritage TRM and is currently implementing a community engagement TRM. The Ktunaxa Nation is engaging in shared territory discussions with their neighbouring First Nations.

The Ktunaxa/Kinbasket Treaty Council represents: ʔakisq̓nuk (Columbia Lake), ʔaqam (St. Mary's Indian Band), ʔakinkumɬasnuqɬiʔit (Tobacco Plains Band) and Yaqan nuʔkiy (Lower Kootenay Band), which total approximately 1,050 members. The traditional territory of the Ktunaxa Nation in British Columbia includes the Kootenay, Flathead and Columbia River watersheds within the area that extends from the Arrow and Kinbasket Lakes east to the Alberta border.

### 'Namgis Nation

As a result of initialling the AiP in August 2013, 'Namgis began community consultation meetings to inform their members. 'Namgis held a ratification vote in March 2013. The community voted not to proceed with the AiP. Since then, the 'Namgis treaty team has developed a plan for community consultation and input on next steps. Following a consultation period that extends into 2014, 'Namgis will consider whether to hold another AiP vote.

The 'Namgis traditional territory is at the north end of Vancouver Island and extends from the Nimpkish watershed to the east and west. The main community is in Alert Bay, on Cormorant Island, where more than half of their 1,785 members reside.

### Nazko First Nation

The Nazko First Nation treaty table is in Stage 4 negotiations. After much hard work by the Parties, Nazko received a land and cash offer in March 2013. Since then, Nazko has been internally reviewing the offer and consulting with their community on next steps. The Parties plan to come back to the table in September 2013. The implementation of Nazko's ITA has been successful with a fuel station and card lock operation under way and further economic development ventures being planned.

Nazko has a population of approximately 371 people and their traditional territory extends from southwest of Quesnel to Prince George in the north.

### Northern Shuswap Tribal Council (NStQ)

The Northern Shuswap Tribal Council treaty table is in Stage 4 negotiations. The Parties at the NStQ table continue to focus on collaboratively developing a land and cash offer and have focused heavily on lands statusing in NStQ's core interest areas. The Parties are aiming for a land and cash offer in the fall of 2013. BC and NStQ have entered exploratory discussions for an ITA.

NStQ represents more than 2,473 people of Northern Secewepemc te Qelmeucw ancestry from four member communities: T'exelc (Williams Lake/Sugar Cane), Xat'sūll/Cm'etem (Soda Creek/Deep Creek), Stswecem'c/Xgat'tem (Canoe and Dog Creek) and Tsq'escen' (Canim Lake Band).

### Te'Mexw Treaty Association

The Te'Mexw Treaty Association treaty table is in Stage 4 negotiations. The Te'Mexw Treaty Association has received their third AiP land and cash offer and are near completion on the AiP treaty language. The five Te'Mexw First Nations each signed an ITA in February 2013 that provided for early transfers of lands. To date, three of these transfers are complete. Te'Mexw First Nations chiefs and councils follow their own protocols for connecting to neighbouring First Nations for shared territory discussions.

The Te'Mexw Treaty Association represents five First Nations: Malahat, Scia'new (Beecher Bay), T'sou-ke (Sooke), Snaw-naw-AS (Nanoose) and Songhees. All Te'Mexw citizens are Douglas Treaty beneficiaries. Their combined population is approximately 1,600 people.

AiP: Agreement in Principle ITA: Incremental Treaty Agreement TRM: Treaty Related Measure

### Tla-o-qui-aht First Nations

The Tla-o-qui-aht treaty table is in Stage 4 negotiations. The First Nation completed their AiP and in November 2012 their membership voted not to proceed with the agreement. Tla-o-qui-aht is engaged in community consultation to determine if a second vote should take place.

Tla-o-qui-aht has about 1,041 members. The hahoulethee (traditional territory) of the Tla-o-qui-aht First Nations extends from the Tofino area west into the sea, down to Kennedy Lake in the south, Adder Mountain in the east and the area around Rhine Peak in the north.

## ACTIVE

**FIRST NATIONS IN ACTIVE AGREEMENT-IN-PRINCIPLE NEGOTIATIONS (20)**

### Council of the Haida Nation

The Council of the Haida Nation is in Stage 4 negotiations. The Parties are engaged in discussions to address reconciliation by using the BC treaty negotiations process. Haida Nation and British Columbia continue to implement the Kunst'aa guu-Kunst'aayah Reconciliation Protocol signed in 2009. The Haida are pursuing a similar protocol with the federal government.

Council of the Haida Nation negotiates on behalf of 4,422 members which includes Old Masset Village Council and Skidegate Band Council. The Haida people continue to occupy the lands and waters of Haida Gwaii.

### Da'naxda'xw Awaetlala Nation

The Da'naxda'xw Awaetlala treaty table is in Stage 4 negotiations. The Parties meet regularly and continue to address outstanding issues as the Parties work towards an AiP. The Parties are identifying potential land parcels for inclusion in a land and cash offer in the future.

The Da'naxda'xw Awaetlala Nation has 213 members, and their traditional lands and waters are on the mainland across from northern Vancouver Island.

### Esk'etemc First Nation

The Esk'etemc First Nation treaty table is in Stage 4 negotiations. The Esk'etemc treaty table has made progress on chapter negotiations. The table will begin a Lands Technical Working Group to discuss areas of interest and potential treaty settlement land options. Esk'etemc has continued intensive community consultations to gain insight into important land interests and to educate their citizens about what the treaty will provide for Esk'etemc.

The population of Esk'etemc is approximately 924 members and its traditional territory is centered on the community of Alkali Lake, 50 kilometres southwest of Williams Lake.

### Gitanyow Hereditary Chiefs

The Gitanyow treaty table is in Stage 4 negotiations. There have been challenges in getting the Parties to engage in tripartite meetings in the last year. Gitanyow has been focusing on implementing the Gitanyow Constitution and their reconciliation agreement with BC. The Parties held a meeting in late September to review work planning.

Gitanyow's population is approximately 813 people and its territory includes large sections of two major watersheds, the Kitwanga and the Nass rivers and sections of the upper Kispiox River in the Swan Lakes area.

### Gitxsan Hereditary Chiefs

The Gitxsan treaty table is in Stage 4 negotiations. The Parties have not been able to engage in negotiations since the fall of 2011. During this time Gitxsan Hereditary Chiefs continue to focus on internal work and is engaging on shared territory discussions.

Gitxsan traditional lands and water are around the upper reaches of the Skeena and Nass rivers. The First Nation includes all or part of the populations of Gitanmaax Band, Gitsegukla Band, Kispiox Band, Gitwangak Band and Glen Vowell Indian Band, totalling approximately 6,566 members.

AiP: Agreement in Principle ITA: Incremental Treaty Agreement TRM: Treaty Related Measure

### Gwa'Sala-'Nakwaxda'xw Nation

The Gwa'Sala-'Nakwaxda'xw treaty table is in Stage 4 negotiations. The Parties held meetings regularly and made great progress on the AiP. Work is being completed on economic development opportunities and cultural studies through TRMs. The table is focusing on land selection to work towards a land and cash offer in the future.

Gwa'Sala-'Nakwaxda Nation have 924 members occupying traditional lands and waters on the mainland across from northern Vancouver Island. Many members currently occupy the Tsulquate reserve near Port Hardy.

### Haisla Nation

The Haisla treaty table is in Stage 4 negotiations. Currently, the Haisla Nation is engaging internally to determine how they will proceed in negotiations while addressing Haisla rights and title.

Haisla has approximately 1,777 members, and traditional lands and waters on the west coast of BC near Kitimat.

### Hul'qumi'num Treaty Group (HTG)

The Hul'qumi'num Treaty Group (HTG) treaty table is in Stage 4 negotiations. Tripartite activity at the HTG table is focused on updating an inventory of Crown lands that had begun in 2009. BC has had initial discussions on ITA possibilities with the individual bands. HTG continues to regularly meet with their member communities to seek direction at the treaty table.

The HTG represents six communities including Cowichan Tribes, Halalt First Nation, Lake Cowichan, Lyackson, Penelakut Tribe and Stz'uminus First Nation (Chemainus) with a combined population of approximately 7,252 people. Their traditional lands encompass part of southern Vancouver Island, the mainland along a narrow corridor extending from the coast to Yale in the east and the waters of the Strait of Juan de Fuca and the Strait of Georgia.

### Kaska Dena Council

The Kaska Dena Council treaty table is in Stage 4 negotiations. Kaska and the Province signed an ITA this year, which builds on the 2012 Strategic Engagement Agreement. The First Nation carried out extensive community engagement and is also completing governance and constitution work. The Parties have committed to a vigorous 18-month work plan to complete an AiP.

The Kaska Dena Council has approximately 1,098 members and represents the communities of Kwadacha, Daylu Dena Council and Dease River First Nations and is closely linked with the other Kaska Nations, the Liard First Nation and the Ross River Dena Council. The traditional territory of the Kaska peoples spans from north central BC into Yukon and Northwest Territories.

### Klahoose First Nation

The Klahoose First Nation treaty table is in Stage 4 negotiations. The Parties at the Klahoose table have met regularly this year and the Parties are making progress on chapter negotiations. Klahoose has been engaging its citizens and businesses on land, cultural and economic interests and prioritizing those with the community. The Parties have agreed that the next major focus of negotiations will be developing areas of interest and beginning a collaborative approach to developing a land offer.

Klahoose First Nation has approximately 370 members with its main community on Cortez Island, opposite Campbell River.

### Laich-Kwil-Tach Council of Chiefs (LCC)

The Laich-Kwil-Tach Council of Chiefs (LCC) treaty table is in Stage 4 negotiations. LCC has continued chapter language negotiations this year. Substantial internal work was done by Laich-Kwil-Tach to identify areas of interest for potential treaty settlement lands, and was presented to Canada and BC in the spring. The table is now tasked with analyzing those lands to further understand the interests to narrow the scope of what could be offered in a treaty settlement.

AIP: Agreement in Principle ITA: Incremental Treaty Agreement TRM: Treaty Related Measure

LCC is reorganizing as Wei Wai Kum and Kwiakah provided notice of their intention to proceed in negotiations separately. The Treaty Commission is working with LCC and the member communities on these transition issues, including overlapping and shared territory issues.

The Council of Chiefs comprises Kwiakah, We Wai Kai and Wei Wai Kum. Their traditional lands and waters are around Campbell River, Courtenay and Comox, including parts of Knight, Call, Loughborough, Bear and Toba inlets. Today their collective population is approximately 1,868 members.

### Lake Babine Nation

The Lake Babine treaty table is in Stage 4 negotiations. The Parties met regularly and made progress over the year. Lake Babine Nation continues to strive for a land and cash offer so its membership can evaluate what the treaty negotiations process can provide for their communities.

Lake Babine represents Woyenne, Old Fort, Tache, Donald's Landing and Fort Babine. The combined population is about 2,400 members and their traditional territory spans the area from Burns Lake in the south to the Babine and Nilkitaw rivers to the north, including most of Lake Babine.

### Snuneymuxw First Nation

The Snuneymexw treaty table is in Stage 4 negotiations. Snuneymexw First Nation and the Province signed a reconciliation agreement in March 2013. The agreement transferred lands and also established an engagement protocol for the Douglas Treaty. The tripartite treaty table has not been meeting on a regular basis but the Parties have been meeting bilaterally.

Snuneymuxw has about 1,710 members. Their traditional territory extends across eastern Vancouver Island, including Nanaimo, Gabriola Island, Mudge Island and other islands in the vicinity of the Nanaimo watershed.

### Stó:lō Xwexwilmexw Treaty Association (SXTA)

The Stó:lō Xwexwilmexw Treaty Association (SXTA) treaty table is in Stage 4 negotiations. The Parties have maintained rapid progress this year on chapter language. The SXTA has continued TRM-funded research on economic development, lands and governance. This work is expected to be completed in the fall, allowing the Parties to move into comprehensive land selection discussions, with the goal of achieving a land and cash offer in the near future. SXTA is continuing community consultation on the negotiations and is committed to working with other Stó:lō and neighbouring First Nations.

The seven Stó:lō communities currently in treaty negotiations are: Aitchelitz, Leq'á:mel, Popkum, Skowkale, Skawahlook, Tzeachten and Yakweakwioose with approximately 1,325 members. The SXTA Statement of Intent (SOI) includes the Lower Mainland of south-western BC with a core interest area within the central and upper Fraser Valley, Chilliwack River Valley, lower Harrison Lake and lower Fraser Canyon.

### Taku River Tlingit First Nation (TRTFN)

The Taku treaty table is in Stage 4 negotiations. TRTFN has been negotiating with Canada and BC on a regular basis. The Parties are looking at the significant differences in expectations on land, shared decision making and governance to determine how they will move forward. TRTFN is engaging with their citizens on an on-going basis to receive input into their negotiations.

TRTFN has a population of approximately 394 people and its traditional territory is situated in northwest British Columbia and southwest Yukon.

### Tlatlasikwala Nation

The Tlatlasikwala treaty table is in Stage 4 negotiations. Regular meetings were held during the early part of the year. Tlatlasikwala has completed their governance TRM. Recently, meetings have been put on hold as Canada completes internal work. Negotiations are expected to resume in the fall.

Tlatlasikwala has about 70 members, and their traditional lands are on the northern tip of Vancouver Island.

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### Tlowitsis First Nation

The Tlowitsis treaty table is in Stage 4 negotiations. The treaty table met regularly in the early part of the year, but then differences in chapter progress and the table vision impeded discussions. The Treaty Commission is working to re-engage the Parties.

Tlowitsis has a population of approximately 395 members. Its traditional territory spans part of northeastern Vancouver Island and an area on the mainland just northwest of Sayward.

### Tsay Keh Dene Band (TKD)

The Tsay Keh treaty table is in Stage 4 negotiations. The Parties have been meeting regularly and negotiations on an AiP are moving forward. Resolving critical issues such as shared decision making and resource revenue sharing will be necessary for the Parties to reach an AiP. The First Nation continues to engage with its citizens to receive input for negotiations.

TKD has a population of approximately 454 people and its traditional territory encompasses an area bounded by Mount Trace in the north, by South Pass Peak in the west, by the Nation River in the south and by Mount Laurier in the east.

### Tsleil-Waututh Nation

The Tsleil-Waututh treaty table is in Stage 4 negotiations. The treaty table met regularly this year and continues to make progress. There is agreement from all Parties to work toward a land and cash offer.

The Tsleil-Waututh Nation has about 550 members whose traditional lands and waters are around North Vancouver and the Lower Mainland.

### Wet'suwet'en Hereditary Chiefs

The Wet'suwet'en treaty table is in Stage 4 negotiations. The Parties continue to focus their discussions on governance options under treaty. The tripartite table has been carrying out a comparative analysis of the Wet'suwet'en hereditary governance system and treaty models. Wet'suwet'en is working on a multi-year TRM on governance and constitution development.

The Wet'suwet'en traditional land is in the Bulkely River drainage area in northwest BC. The First Nation includes members of Hagwilget Village and Moricetown and has a population of about 2,700.

## NOT NEGOTIATING

**FIRST NATIONS NOT CURRENTLY NEGOTIATING A TREATY (20)**

### Acho Dene Koe First Nation (ADK)

Acho Dene Koe's traditional territory spans three jurisdictions: BC, Yukon and Northwest Territories. ADK continues to wait for BC to obtain a mandate to negotiate trans-boundary claims. Canada has indicated it is prepared to engage with ADK in the BC region. ADK has requested that the Treaty Commission assist the First Nation with its shared territory discussions with Fort Nelson Band.

ADK has approximately 673 members. ADK's main community is Fort Liard, a village 25 kilometres north of the BC-Northwest Territories border and maintains a small settlement at Francois Lake in northern BC.

### Allied Tribes of Lax Kw'alaams

The Treaty Commission accepted the Statement of Intent (SOI) of the Allied Tribes of Lax Kw'alaams in 2005 but did not engage in tripartite negotiations. The Parties recently met to explore the possibility of re-engagement and are waiting for Canada to complete its readiness requirements.

The Allied Tribes of Lax Kw'alaams were formally part of the Tsimshian Tribal Council and separated in the spring of 2004. Located northwest of Prince Rupert, the Allied Tribes have a population of approximately 3,640.

### Carcross/Tagish First Nation

Carcross/Tagish's rights to the Yukon portion of its traditional lands and resources were confirmed in the final agreement signed in 1993 with the governments of Canada and Yukon.

There have been no tripartite treaty negotiations in BC since then. Carcross/Tagish is one of three Yukon First Nations with interests in BC since 2000.

### Carrier Sekani Tribal Council

There is no tripartite activity at this table. The Tribal Council includes eight communities, including Burns Lake Indian Band (Ts'il Kaz Koh First Nation), Nadleh Whut'en Band, Nak'azdli Band, Saik'uz First Nation, Stellat'en First Nation, Takla Lake First Nation, Tl'azten Nation and Wet'suwet'en First Nation.

The combined population is approximately 6,600 with a traditional territory in excess of 90,000 square kilometres in north-central BC.

### Champagne and Aishihik First Nations

Champagne and Aishihik's rights to the Yukon portion of its traditional lands and resources were confirmed in the final agreement signed in 1993 with the governments of Canada and Yukon. There have been no tripartite treaty negotiations in BC since 2000.

Champagne and Aishihik are one of several Yukon First Nations with interests in BC.

### Cheslatta Carrier Nation

The Cheslatta Carrier treaty table remains inactive and has not had tripartite meetings since 1997.

Cheslatta traditional territory encompasses the area around Ootsa and Eutsuk lakes in central BC. Cheslatta has approximately 343 members.

### Heiltsuk Nation

The Heiltsuk table remains inactive. There have been no treaty negotiations since 2001.

The Treaty Commission is working with Heiltsuk and Wuikinuxv on shared territory issues.

Heiltsuk is based on Campbell Island, with traditional territory extending across the central coast, and has approximately 2,240 members.

### Hupacasath First Nation

Hupacasath treaty table remains inactive and has not had tripartite meetings since 2009.

Hupacasath has approximately 308 members and is located in the Port Alberni area of Vancouver Island.

### Hwlitsum First Nation

The statement of intent to negotiate a treaty submitted by Hwlitsum First Nation was accepted by the Treaty Commission in May 2008. The governments of Canada and BC have yet to make a commitment to negotiate with Hwlitsum.

### Kwakiutl Nation

The Kwakiutl Band has stepped away from the BC treaty negotiations so they can pursue claims under their Douglas Treaty.

The Kwakiutl Band has more than 750 members with approximately 300 members living in their community of Fort Rupert within their traditional territory on the north-eastern shores of Vancouver Island.

### Liard First Nation

Liard is a Yukon First Nation that has not completed a final agreement in the Yukon. There have been no tripartite treaty negotiations in BC. The First Nation has interests in BC and is affiliated with the Kaska Nation which includes the Kaska Dena Council and Ross River Dena Council.

The traditional territory of the Kaska people ranges from north central BC to the Yukon and Northwest Territories.

### McLeod Lake Indian Band

There have been no treaty negotiations since 2005. The First Nation entered the BC treaty negotiations process in 2004 with a view to building self-government on the McLeod Lake Treaty 8 Adhesion Agreement concluded in 2000.

The McLeod Lake Indian Band has approximately 490 members and its main community lies 150 kilometres north of Prince George.

AIP: Agreement in Principle ITA: Incremental Treaty Agreement TRM: Treaty Related Measure

### Musqueam Nation

There have been no treaty negotiations for several years.

The First Nation has approximately 1,300 members with a traditional territory spanning the Greater Vancouver area.

### Nuu-chah-nulth Tribal Council

Nuu-chah-nulth treaty table is not in active tripartite negotiations.

Nuu-chah-nulth Tribal Council comprises of Ehattesaht, Hesquiaht, Mowachacht/Muchalaht, Nuchatlaht and Tseshaht First Nations. Their combined population is approximately 2,990 members, and their traditional territories span much of the west coast of Vancouver Island.

### Quatsino First Nation

There have been no tripartite meetings since the fall of 2011 when the Quatsino treaty table decided to step aside from treaty negotiations.

Quatsino has about 514 members and their traditional lands and waters are around the north end of Vancouver Island.

### Ross River Dena Council

Ross River is a Yukon First Nation that has not completed a final agreement in Yukon. There have been no tripartite treaty negotiations in BC. The First Nation has interests in BC and is affiliated with the Kaska Nation which includes the Kaska Dena Council and Liard First Nation.

The traditional territory of the Kaska people ranges from north central BC to Yukon and Northwest Territories.

### Sechelt Indian Band

The last meeting between the Parties was held in April 2007.

Sechelt has been self-governing since 1986 when it signed the first self-government agreement in Canada, the Sechelt Indian Band Self-Government Agreement.

Sechelt, a First Nation with approximately 1,330 members, has traditional lands and waters around the Sechelt Peninsula.

### Squamish Nation

There have been no treaty negotiations for several years.

The traditional territory of the Squamish ranges from the Lower Mainland to Howe Sound and the Squamish valley watershed. The First Nation has approximately 4,060 members

### Teslin Tlingit Council

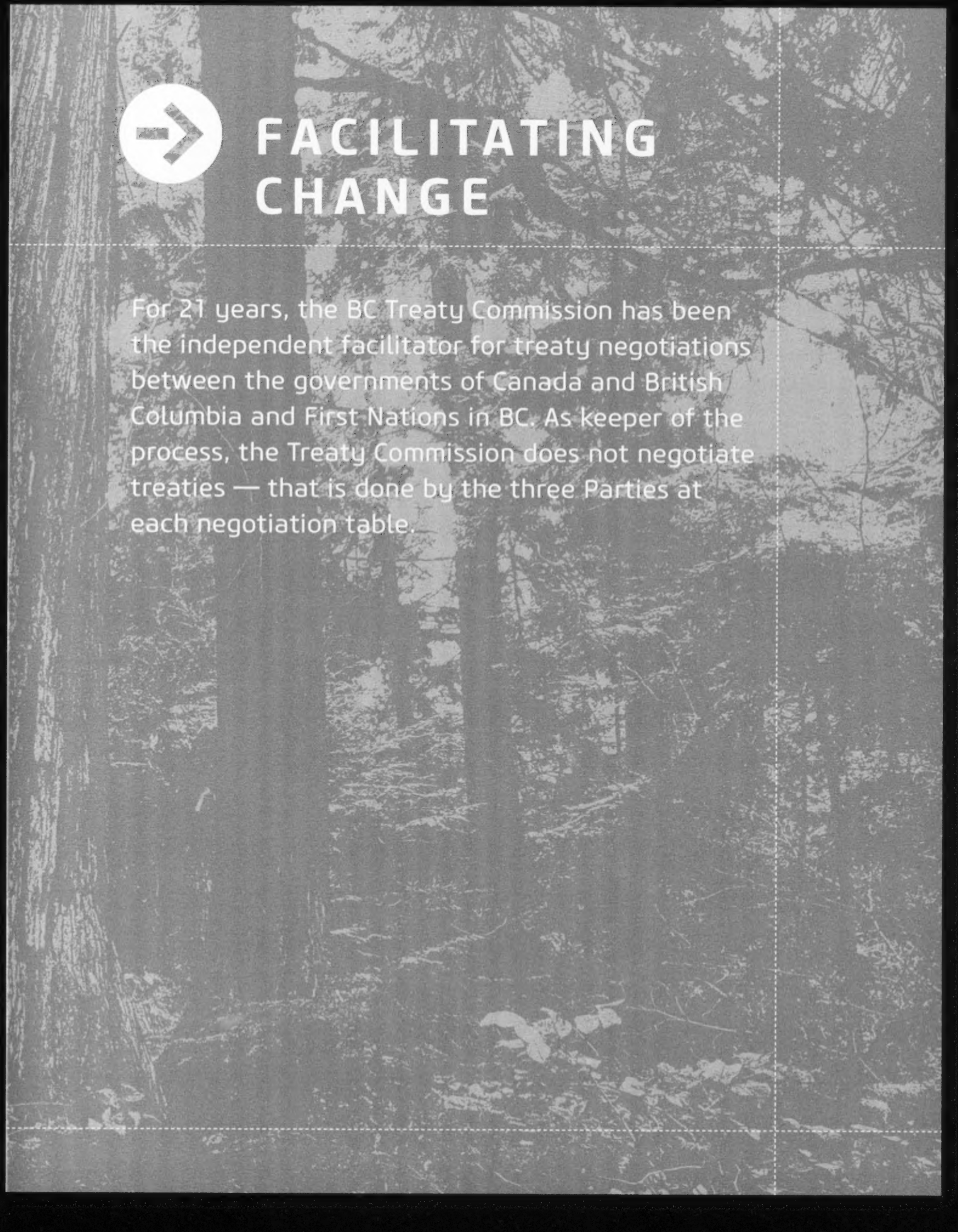
Teslin Tlingit's rights to the Yukon portion of its traditional lands and resources were confirmed in the final agreement signed in 1993 with the governments of Canada and Yukon. There have been no tripartite treaty negotiations in BC since 2000.

Teslin Tlingit are one of several Yukon First Nations with interests in BC.

### Westbank First Nation

Westbank has withdrawn from negotiations, but remains in the treaty negotiations process.

Located in the Kelowna area, Westbank has approximately 800 members.



# FACILITATING CHANGE

For 21 years, the BC Treaty Commission has been the independent facilitator for treaty negotiations between the governments of Canada and British Columbia and First Nations in BC. As keeper of the process, the Treaty Commission does not negotiate treaties — that is done by the three Parties at each negotiation table.

# The British Columbia Treaty Commission is the Independent Facilitator for Treaty Negotiations

The Treaty Commission has three roles: facilitation, funding and public information and education.

On September 21, 1992, the Treaty Commission and the treaty negotiations process were established by agreement of Canada, BC and the First Nations Summit. They are guided by the agreement and the 1991 Report of the BC Claims Task Force, which is the blueprint for the Made-in-BC treaty process.

The Treaty Commission was mandated to facilitate negotiations toward fair and durable treaties under the six-stage treaty process. The process is voluntary and open to all First Nations in BC.

The Treaty Commission continues to clarify its role as the "Independent Facilitator for Treaty Negotiations," and will work with the Parties through the "Role of BCTC" discussions in Treaty Revitalization. This will ensure the Principals and the Treaty Commission can work toward a common vision of how the Treaty Commission's role can support the Made-in-BC treaty negotiations process.

Funding from the federal and provincial governments for the operating costs of the Treaty Commission for the 2012–2013 fiscal year was $2.55 million. Total funding for operations from 1993 to March 31, 2013 is approximately $43.1 million.

The government of Canada contributes 60 per cent of the Treaty Commission's budget and the BC government contributes 40 per cent.

The Treaty Commission comprises a chief commissioner, four commissioners and 10 staff.

## Report on facilitation

The Treaty Commission's primary role is to oversee the negotiations process and to make sure the Parties are being effective and making progress in the negotiations. In carrying out this role, the Treaty Commission:

- Accepts First Nations into the treaty process and assesses when the Parties are ready to start negotiations;
- Monitors and reports on the progress of negotiations and encourages timely negotiations;
- Chairs key meetings at tables and offers advice to the Parties;
- Assists the Parties in developing solutions and in resolving disputes;
- Identifies and engages with the Principals on key opportunities to overcome obstacles to progress;
- Supports pilot projects with the potential to promote progress in negotiations; and
- Develops and applies policies and procedures for the six-stage treaty process.

Treaty Commissioners and staff are involved in a variety of facilitation initiatives, often on a sustained basis.

This demand has arisen from a number of circumstances:

- Intensified treaty negotiations at Stage 5 and some Stage 4 tables;
- Completion of final agreement negotiations and the ratification requirements for First Nations;
- Stalled treaty negotiations;
- Intensified inter-First Nation dialogue on overlapping and shared territories, particularly where treaty negotiations are approaching final agreement;
- Intensified internal First Nations dialogue, especially in multi-community First Nations on issues of shared territory, governance and capacity;
- Principal-level and Senior Official-level discussions on common issues through processes such as the Treaty Negotiation Process Revitalization Table.

The Treaty Commission is also applying its knowledge and experience from facilitation to special initiatives that will benefit the treaty process and the Parties to the negotiations with broader tools, such as:

- The Human Resource Capacity Tool, to assist First Nations in preparing for self-government; and
- Resources and support to address shared territory issues and to promote early resolution of these issues.

## Report on funding

The Treaty Commission allocates negotiation support funding so that First Nations can prepare for and carry out treaty negotiations on a more even footing with the governments of Canada and BC. In general, for every $100 of negotiation support funding allocated, $80 is a loan from Canada, $12 is a contribution from Canada and $8 is a contribution from BC.

Since April 2004, First Nations have been able to accept just the non-repayable contribution or take any portion of their loan allocation. In every year since this change, several First Nations have chosen to accept fewer loan dollars than would have been required previously.

Contribution funding continues to be available to a First Nation until the effective date of a treaty. However, loan advances must stop at least 30 days prior to all three Parties signing the final agreement.

Since opening its doors in May 1993, the Treaty Commission has allocated approximately $597 million in negotiation support funding to more than 50 First Nations — approximately $471 million in loans and $126 million in non-repayable contributions.

The Tsawwassen and Maa-nulth First Nations have begun to repay their negotiation loans, under the terms of their final agreements.

## Report on public information and education

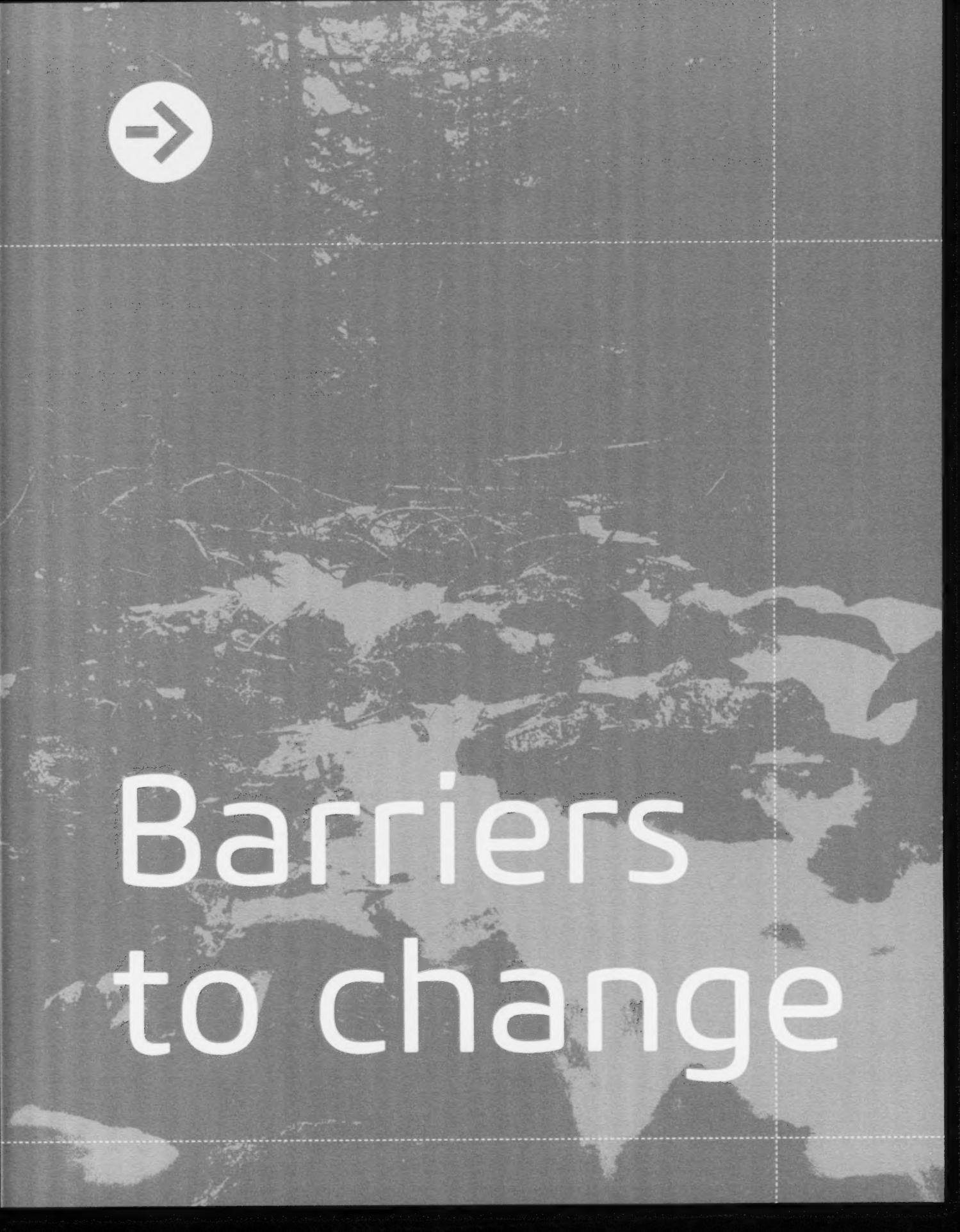
The Treaty Commission is uniquely positioned to provide public information. The governments of Canada and BC also share responsibility for public information. Additionally, the three Parties in each set of negotiations — Canada, BC and First Nations — provide specific information on their treaty negotiations.

The governments of Canada and BC have funded the Treaty Commission to provide public information and education on treaty making in BC since 1997. To reach audiences throughout BC, the Treaty Commission provides a variety of communications tools, including a website, annual report, online newsletters, special publications, DVDs and teaching materials for elementary and secondary schools. The Treaty Commission is making an effort to deliver more of its publications and informational material online to reflect the importance of new media and to reduce paper use.

The Treaty Commission intends to use the medium of video to better connect with a wider audience. The soon-to-be-released video "Treaty 101" will give viewers a full yet succinct outline of the treaty negotiations process. Other videos on the Treaty Commission's YouTube page showcase leaders in the treaty process and their experiences, successes and challenges.

The chief commissioner, commissioners and treaty advisors deliver presentations at conferences, special events and community forums and to business organizations, schools and post-secondary institutions. In addition to providing up-to-date information on the current state of the treaty negotiations process, the Treaty Commission has an important role to play in supporting publication information efforts by individual treaty tables.

To assist with these regular efforts, commissioners and treaty advisors regularly attend information forums with First Nation constituents and with the broader non-Aboriginal community.



# Barriers to change

# Overlapping and Shared Territory Disputes, Mandate Challenges, Delays and Debt

## ALL PARTIES MUST RE-COMMIT TO OVERCOMING CHALLENGES

The Treaty Commission recognizes several areas where challenges remain — the Principals need to commit to addressing barriers to progress in the treaty negotiations process.

Overlapping and shared territory disputes between neighbouring First Nations continue to be a challenge. This has implications for all Parties, especially given the current emphasis on economic and resource development in the province. The governments need to strengthen efforts to work with BC First Nations to secure long-term treaties that will result in economic benefits and security for all British Columbians and Canadians.

Furthermore, delays caused by the Results Based Approach announced by the federal government last year and long gaps without federal mandates because of years of fishery studies and reviews, and the Fiscal Harmonization Review that began in 2010 — leads the Treaty Commission to question the federal government's commitment to the treaty negotiations process.

The Treaty Commission also has concerns about the province shifting priority from treaty negotiations to economic development efforts. The Treaty Commission understands the importance of economic development, but not at the expense of reaching lasting treaties with First Nations.

Lastly, First Nations who have achieved final agreements are facing challenges with pre-implementation and implementation of their treaties. Implementation is part of the treaty process, and with an expanded mandate, the Treaty Commission could be a helpful facilitator and advocate to help make the transition to independence an easier change for First Nations, the province and the federal government.

### Overlapping and shared territory

Overlapping and shared territory disputes have become a central concern for all Parties to the BC treaty negotiations process. This is not simply a First Nations concern — it is a larger issue that impacts reconciliation. The federal and provincial governments have an interest in the resolution of these disputes — as both have staked a great deal of their future economic success on resource development.

The Treaty Commission is directly involved in assisting First Nation to First Nation dispute resolution at several tables. The Treaty Commission is applying a range of facilitation support and is able to assist First Nations with contribution funding, supported by Canada and BC.

Discussions at Treaty Revitalization on the "Role of BCTC" may be a venue to consider how the Treaty Commission can further support this critical work.

Resolutions have been moved by the First Nations Summit and discussions are occurring at the national level to establish dispute resolution mechanisms to address overlap issues, including mandatory binding arbitration. The Treaty Commission welcomes these discussions and supports the development of new options.

The Treaty Commission encourages the three Parties and their new leadership to recognize the urgency of this issue and to rise to the challenge of collectively supporting First Nations facing overlapping and shared territory disputes with their neighbours. First Nations need resources to help facilitate collaboration in resolving these issues for the long term.

By resolving these issues, better relations between neighbouring First Nations will be created.

"I believe it's the role of the First Nations to come to an accommodation with each other in the disputed territory, whatever that territory is and however many Nations are involved in it," Commissioner Dave Haggard told the Aboriginal Affairs and Northern Development Committee on June 4, 2013. "The Treaty Commission doesn't have the authority to draw lines on the map, nor should we .... What [First Nations] have to do is find a solution for how [they're] going to deal with the territory in the disputed areas."

The Treaty Commission has concerns about these issues impacting provincial commitments to land offers and ITAs where overlapping and shared territory disputes exist.

## Outstanding mandate challenges

### Fish and fiscal

It has been six years since there was a fish mandate. This long delay for a s. 35 rights issue of critical importance to First Nations in BC needs to be addressed.

There has been no mandate to negotiate fish since 2007 when the West Coast Fisheries Review was introduced. Two years later, in 2009, the Cohen Commission was established and in October 2012 the inquiry was completed and recommendations released.

Similarly, negotiations on the fiscal relations part of treaty have been delayed due the fiscal harmonization review that was introduced in 2010.

As these delays continue, First Nations are faced with mounting debt from loans they have incurred to negotiate.

### Results Based Approach

As part of its Results Based Approach announced in the fall of 2012, Canada unilaterally conducted table assessments. These assessments detracted from treaty negotiations and created uncertainty for many First Nations. The assessments were expected to result in some negotiation tables losing federal resources as Canada shifts its focus to "priority" tables. The federal government stated that the outcomes of these assessments were to be released in the spring of 2013. The Made-in-BC treaty process cannot get lost in this national review.

As a result of the January 11, 2013 meeting between the Prime Minister and the AFN National Chief, a Senior Oversight Committee for Comprehensive Claims (SOCCC) was established to review treaty negotiations across the country. The Treaty Commission has been informed that the outcomes of these assessments are now postponed until the SOCCC has completed its work. A frank and clear update needs to be communicated by the federal government to all tables and Parties in the BC treaty negotiations process.

## Pre-implementation and implementation challenges

As the number of treaties being ratified and implemented increases in British Columbia, pre-implementation and implementation issues are becoming a reality. The demands of treaty negotiations may seem daunting, but really, this is only the beginning of the journey to independence.

The Treaty Commission has concerns about two related issues in this crucial time of change: First Nations' transition during the closing period and the loss of funding and programs supplied by Canada after the effective date.

### Pre-implementation challenges

First Nations cannot accept loans in the latter part of Stage 5, which is known as the closing or pre-implementation period, although contribution funding remains available up to the effective date. For most First Nations, this means that their main source of treaty-related funding drops by 80 per cent in this period. The closing period begins when all three Parties have signed the final agreement, which typically occurs just before Canada tables the final agreement legislation in the House of Commons.

The average length of time required to complete the closing period is about two years. During this time, the First Nation must complete a wide range of activities, including developing laws that will begin on the effective date. It is important that the First Nations have the financial resources available to retain those people most familiar with the detailed terms of the agreement throughout this period so that the transition to self-government is smooth and successful.

The experiences of Tsawwassen and Maa-nulth as they moved towards their effective dates have increased the understanding of the activities and resources required during the closing period. Canada and BC have now largely resolved cost-sharing issues. Canada's revised Treaty Related Measure (TRM) authorities appear to be helping to address cost pressures. As well, Canada is now in a position to be able to advance some implementation funding for First Nations to address specific one-time start-up activities prior to the effective date.

The Principals have encouraged the Treaty Commission to increase the amount of contribution funding provided to First Nations during the closing period however, available contribution funding is very limited.

### Implementation challenges after effective date

The Treaty Commission has been contacted by treaty First Nations on several issues regarding implementation.

Access to low-cost borrowing for treaty First Nations is a key implementation issue requiring the attention of both the provincial and federal governments. First Nations entering into modern treaties cannot be at a disadvantage to *Indian Act* bands not in treaty. This and other fiscal issues and inequities must be addressed.

A process is needed to address these issues in BC, early on as they arise, so that the Parties can avoid the dispute resolution clauses of the treaty or court proceedings. The Treaty Commission will be raising these issues and the need for a process to address at Principals meetings and other discussions such as Treaty Revitalization.

Tom Mexsis Happynook is an elected councilor and member of the Executive Council and legislature, and hereditary chief of the Huu-ay-aht First Nations. He says First Nations need to be ready before their effective date for what comes next. Official community plans should be drawn up, land and boundary surveys should be completed, law enforcement should be arranged and cultural and heritage issues must be addressed as much as possible, because the provincial and federal funding to accomplish these tasks stops on the effective date.

# COMMISSIONERS

The chief commissioner is appointed by agreement of the three Parties. One commissioner is appointed by Canada and one is appointed by British Columbia. The First Nations Summit elects two commissioners. Commissioners do not represent the Principals who appoint them, but act independently.

## SOPHIE PIERRE

was appointed chief commissioner in April 2009 by agreement of the governments of Canada and British Columbia and the First Nations Summit. Pierre served the St. Mary's Indian Band for 30 years (26 as elected chief) and was the administrator of the Ktunaxa/Kinbasket Tribal Council for 25 years. She also served as the tribal chair of the Ktunaxa Nation Council, chairperson of the First Nations Finance Authority, president of St. Eugene Mission Holdings Ltd. and co-chair of the International Advisory Committee to the Indigenous Nations Institute for Leadership, Management, and Policy for the University of Arizona. Pierre was involved in the work of the British Columbia Claims Task Force and served as a co-chair of the First Nations Summit. She has also served on several boards and committees, including the Environmental and Aboriginal Relations Committee of the BC Hydro & Power Authority and the First Nations Congress. Pierre was recognized with the Order of British Columbia in 1994 and the National Aboriginal Achievement Award in the business category in 2003. During her tenure as chief commissioner, Sophie Pierre was awarded two honorary Doctorates of Law — in 2010 from the University of Canada West and in 2012 from the University of British Columbia.

## JERRY LAMPERT

was re-appointed in December 2011 to a third two-year term by the Government of Canada. Prior to this appointment, Lampert served for 15 years as president and chief executive officer of the Business Council of British Columbia where he was a vocal advocate for developing better business relationships with First Nations. Lampert served as chief of staff to two BC premiers and managed two successful provincial election campaigns in BC. He currently sits on the Board of Directors of the United Way of the Lower Mainland.

## DAVE HAGGARD

was re-appointed to a third two-year term in February 2012 by British Columbia. He has facilitated negotiations with industry, labour and governments including First Nation governments. Haggard has worked with the Maa-nulth First Nations among others. He was national president of the Industrial, Wood and Allied Workers of Canada and served as vice president of the Canadian Labour Congress and the BC Federation of Labour. Born in Kamloops and raised in Barriere, Haggard's grandmother was a member of the Simpcw First Nation. His late wife Eileen was a member of the Tseshaht First Nation and together they raised two children, Ted and Linsey.

## CELESTE HALDANE

was re-elected by the First Nations Summit delegates in March 2013 to serve a second two-year term. Haldane holds a Master of Laws, Constitutional Law from Osgoode Hall Law School, York University, a Bachelor of Laws and a Bachelor of Arts majoring in Anthropology, both from the University of British Columbia. She is a practising lawyer and was called to the BC Law Society in 2005. She is an active member of the Canadian Bar Association and is currently serving a one-year term on both the National Constitutional and Human Rights Law Section and the National Women's Lawyer Forum. For the past four years she served as chair on the Musqueam Land Code Committee and is now volunteering to serve on the Musqueam Matrimonial Real Property Law Special Council Working Group. She has an extensive professional background in First Nations economic development, governance including policy development and policy implementation. Haldane is a member of the Sparrow family from the Musqueam Indian Band and she has roots in Tsimshian through Metlakatla. She is married and they are raising three children together.

## DAN SMITH

was elected by the First Nations Summit delegates on September 26, 2013 to serve a two-year term. Smith is a member of the Campbell River Indian Band of the Laich-Kwil-Tach First Nation. He has an extensive history of working with First Nations, Aboriginal organizations and the federal government. His involvement has included serving as Vice President of the Native Council of Canada, President of the United Native Nations, member of the BC Human Rights Commission, as well as numerous other boards and committees. He has worked in senior positions with the Department of Fisheries and Oceans, Indian and Northern Affairs Canada, Heritage Canada, and Canada Employment and Immigration. Smith was elected to the three-member political executive of the First Nations Summit, the Summit Task Group, in June 2008 and again in 2010. The Task Group is authorized by the Summit to carry out specifically mandated tasks on issues related to treaty negotiations in British Columbia. The First Nations Summit, which is comprised of a majority of First Nations and Tribal Councils in BC, provides a forum for First Nations in British Columbia to address issues related to treaty negotiations as well as other issues of common concern.

# Keeping the Public Informed About the Treaty Negotiations Process

## REFLECTING, INFORMING, CHALLENGING

Over the past 21 years, the Treaty Commission has seen a great deal of change. It is fitting then that the Treaty Commission is changing as well to enhance our connection with stakeholders. New media continue to grow in importance in this digital age and we are increasingly utilizing these tools. As always, our goal is to keep our audiences informed about our work as keeper of the process.

### The BC Treaty Commission website

Our website, www.bctreaty.ca, is becoming more frequently updated with in-depth information about the treaty negotiations process, the First Nations involved in it, the Treaty Commission and our commissioners. Public documents dating back to 1991 can be found on our website, along with videos, news releases and educational material suitable for students of all educational levels.

### Email distribution list

News and updates from the Treaty Commission can now be sent directly to your inbox. Sign up for the Treaty Commission's mailing list at www.bctreaty.ca/files/contact_us.php.

### YouTube

The Treaty Commission is increasingly using video to educate the public about the treaty negotiations process. Our YouTube channel is being updated with greater frequency and allows users to hear the voices of those working to make treaties a reality. Our videos, including the upcoming video backgrounder, "Treaty 101," can be viewed at www.youtube.com/user/BCTreatyInformation.

### *Update*

*Update* is the Treaty Commission's e-newsletter. *Update* offers current information about First Nations in the treaty negotiations process and new developments as they arise. It also highlights initiatives undertaken by the Treaty Commission and coverage of events. *Update* can be found online at www.bctreaty.ca/files/newsletter.php.

### Annual reports

Our annual reports offer comprehensive information about the treaty negotiations process and the First Nations undertaking it along with updates on the challenges, successes and status of the treaty negotiations process. Our current annual report along with reports dating back to 1994 can be found online at www.bctreaty.ca/files/annuals.php.

*Scan this QR code to be taken directly to the BC Treaty Commission website*

**Keeper of the process**

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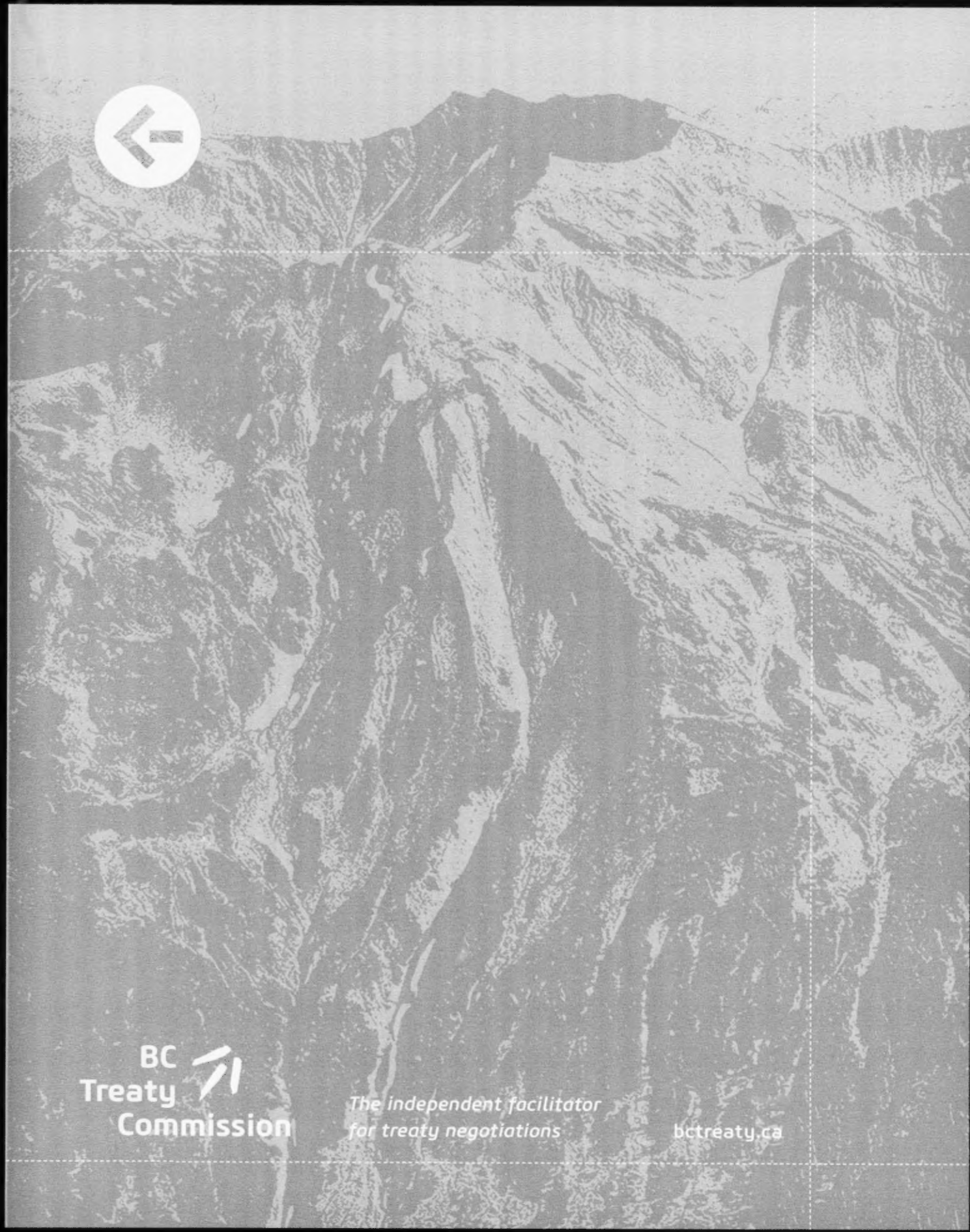

BC Treaty Commission

*The independent facilitator for treaty negotiations*

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